IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 8TH FEBRUARY 2007 / 19TH MAGHA 1928

MFA.No. 882 of 1999(B)

OPMV.1927/1993 of MOTOR ACCIDENT CLAIMS TRIBUNAL, NEYYATTINKARA
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APPELLANT:

SOBHANAKUMARY, W/O.MANDADAN NAIR, BHASURANGI BHAVAN, VELIYAMKOTTUKONAM, CHENKAVILA, AYIRA P.O., PARASSALA.

BY ADV. DR.K.P.KYLASANATHA PILLAY
SRI.P.SREEKUMAR
SRI.B.PRABHAT KUMAR

RESPONDENTS:
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1. THE MANAGING DIRECTOR, KSRTC, THIRUVANANTHAPURAM.

2. P.MOHANAN, S/O.PADMANABHAN CHETTIYAR, TC 20/2298, THELUGU CHETTI THERUVU, KARAMANA, THIRUVANANTHAPURAM.

3. NOORJAHAN, W/O.SULAIMAN, KADAYARA PUTHEN VEEDU, ADAKKAKUZHI P.O, CHENKAVILA VIA, KALIYACKAVILA, K.K. DISTRICT.

4. SALIM, S/O.LATE SULTHAN PILLAI, KADAYARA PUTHEN VEEDU, -DO-

5. SULEKHA, W/O.SHAJAHAN, -DO-

6. SADIK, S/O.LATE SULTHAN PILLAI, -DO-

7. THE MANAGER, UNITED INDIA INSURANCE CO. LTD., BRANCH OFFICE, MALAKARA BUILDING, PAYALAM, THIRUVANANTHAPURAM.

8. C.VIDYADHARAN, PLAVILA PUTHEN VEEDU, CHENKAL P.O, NEYYATTINKARA.

BY ADV. SRI.S.M.PREM
SMT.K.P.SANTHI
SRI.THOMAS MATHEW NELLIMOOTTIL

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 8.2.2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN & S.SIRI JAGAN, JJ.

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M.F.A No.882 of 1999

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Dated this the 8th day of February, 2007

J U D G M E N T

Raman, J.:

This is an appeal filed by the claimant challenging the award in O.P(M.V).No.1927/1993 dated 31.3.1999 on the file of the Motor Accidents Claims Tribunal, Neyyattinkara. The appellant was a passenger in a car bearing registration No.KRT-1392. The car was proceeding from Parassala to Thiruvananthapuram. A K.S.R.T.C. Bus belonging to the 1st respondent coming from the opposite direction, hit the car as a result of which the accident occurred. It is alleged that the accident was the result of the negligent driving of the driver of the bus. The appellant sustained serious injuries. The appellant was admitted to the hospital. She was a pregnant lady. All through more than 45 days she was in various hospitals for treatment. She underwent several operations also. She delivered while undergoing treatment in the

hospital. The Tribunal found negligence on the part of the driver of the KSRTC bus and a compensation of Rs.97,560/- was awarded. Claiming further enhancement, this appeal is filed.

2. The appellant was personally examined as PW1 and she gave evidence and in her sworn in testimony she stated that in the accident, fracture was caused to her head, right hand and teeth. She was first taken to the Neyyattinkara Hospital and from there, to the Medical College, Hospital. She was unconscious. She was admitted in the medical college on 27.4.1992 and discharged on 10.5.1992. She was pregnant at the time of the accident. She was again admitted to the S.A.T. Hospital on 31.8.1992 to 1.9.1992. She was treated in the neurology department till 9.9.1992. Again she was transferred to S.A.T. Hospital on 9.9.1992 and continued the treatment there till 15.10.1992. It was while undergoing treatment in the S.A.T. Hospital, that on 2.10.1992 she delivered a child. Even thereafter, she had to undergo treatment at the S.A.T. Hospital and medical college for

deficiency of vision out of the accident. Fracture has caused to her frontal bone as a result of which there is dis-figuration. Due to fracture, she has disability for her right hand. As a result of disability for the right hand, her job in the spinning mill as a spinning instructor was lost and even her husband deserted her. At present she has headache and vomiting tendency and she was not fully recovered. Ext.A7 is the scan report. Exts.A8 and A9 are O.P. tickets from the Government Ophthalmic Hospital, Trivandrum. Ext.A10 is the reference card issued from the Opthalmic Hospital. Exts.A11 and A12 are the charts of the eyes of the appellant. A13 is the O.P.ticket issued from the S.A.T. Hospital for the period from 31.8.1992 to 1.9.1992. Ext.A14 is the O.P.ticket issued from the S.A.T.Hospital for the period from 8.9.1992 to 15.10.1992. Ext.A15 is the discharge certificate issued from the department of Neurology, Medical College Hospital, Thiruvananthapuram. Ext.A16 is the referral O.P. card of the Medical College, Hospital. Ext.A17 is referral O.P. card of the

Medical College Hospital issued on 5.3.1996. Ext.A18 series are medical bills for Rs.2892.27. Ext.A19 is referral O.P.card of the Medical College Hospital issued on 13.8.97. Ext.A20 is scan photos and Ext.A21 is x-ray films. Ext.A22 is the disability certificate issued by Dr.Ahamed Pillai, Associate Professor, Dept. of Orthopedics, Medical College Hospital, Thiruvananthapuram. The court below has referred to the entire medical evidence as above with meticulous care. Her monthly salary was fixed at Rs.1500/- and 21 per cent disability as assessed by the doctor also was accepted.

3. Among various heads under which compensation was awarded, we find that compensations under the following heads are low and some more reasonable compensation is entitled to be awarded. For extra nourishment, as against the claim for Rs.15,000/- she was awarded only an amount of Rs.3500/- Considering the period during which she was in various hospital, and considering the nature of the injury sustained and the treatment given to her, we find that a further

amount of Rs.2,500/- under this head is to be awarded. Likewise, towards medical expenditure, only an amount of Rs.5000/- was awarded as against the claim for Rs.30,000/-. We find that a further amount of Rs.10,000/- more is to be awarded under this head. For pain and suffering, as against the claim for Rs.1,50,000/- an amount of Rs.10,000/- alone is awarded. The same is to be enhanced. Accordingly, we award a further amount of Rs.25,000/- under this head. The compensation awarded under various other heads are found to be reasonable and no interference is called for.

4. In the result a further amount of Rs.37,500/- is awarded by way of enhancement which will carry interest at the rate of 12 per cent as awarded by the court below. The award passed by the Tribunal stand modified as above.

Sd/-
P.R.RAMAN, JUDGE

Sd/-
sdk+ S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge.

P.R.RAMAN
&
S.SIRI JAGAN, JJ.

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M.F.A No.882 of 1999
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J U D G M E N T

8th February, 2007